

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES WINDHAM,

Plaintiff,

v.

STATE OF CALIFORNIA, et al.,

Defendants.

No. 2:20-cv-773 TLN DB P

ORDER

Plaintiff is a state prisoner who was proceeding pro se with a civil rights action under 42 U.S.C. §1983. Plaintiff alleged that defendants violated his rights by taking items from his cell. This case was dismissed for failure to comply with court orders and failure to prosecute on April 14, 2021. (ECF Nos. 21, 22.)

Plaintiff has now filed a notice informing the court that he is in danger. He alleges that prison officials have not taken sufficient action to protect him after prison gangs threatened to kill him. He asks the court to send “FBI, U.S. Marshals, Assistant U.S. Attorney” and seeks to prevent a transfer back to Mule Creek State Prison.

To the extent plaintiff believes his rights have been violated and he is in danger, he cannot pursue relief via this action which has been closed. Additionally, the allegations contained in his notice do not relate to the allegations contained in the complaint filed in this case. Thus, the relief sought cannot be granted because it would be directed toward individuals who are not parties to

1 this action, Zenith Radio Corp. v. Hazeltine Research, Inc., 395 U.S. 100, 110 (1969) ("It is  
2 elementary that one is not bound by a judgment ... resulting from litigation in which he is not  
3 designated as a party ...."), and the relief sought is unrelated to plaintiff's underlying claims in  
4 this action, Pacific Radiation Oncology, LLC v. Queen's Medical Center, 810 F.3d 631, 633 (9th  
5 Cir. 2015) ("When a plaintiff seeks injunctive relief based on claims not pled in the complaint,  
6 the court does not have authority to issue an injunction."). Plaintiff is advised file a separate  
7 action seeking relief based on the allegations contained in this filing.

8 Plaintiff has also stated that the present action was dismissed because Mule Creek State  
9 Prison staff stole his legal mail. He further states that the warden and correctional officer Cook  
10 gave plaintiff to the Nazi Low Riders and Aryan Brotherhood prison gangs. He was  
11 "involuntarily drugged, sedated, repeatedly raped, tortured, terrorized, sleep-deprived,  
12 brainwashed, 'brain-seeded' (w[ith] sodium pentothal)." (ECF No. 23 at 2.)

13 If plaintiff would like to challenge the order of judgment in this case based on the  
14 confiscation of his legal mail, plaintiff is advised to file a motion for relief from judgment of this  
15 action along with a proposed amended complaint. Any such motion should clearly set forth the  
16 reason he failed to respond to the court's prior orders.

17 Accordingly, IT IS HEREBY ORDERED that the relief sought in plaintiff's notice (ECF  
18 No. 23) is denied. Should plaintiff seek to reopen this action he should file a motion for relief  
19 from judgment within thirty days of the date of this order along with a proposed amended  
20 complaint.

21 Dated: June 14, 2021



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23 DEBORAH BARNES  
24 UNITED STATES MAGISTRATE JUDGE  
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